

ISSUE DATE: April 10, 1998

DOCKET NO. E-252,120/SA-96-1103

ORDER ACCEPTING SETTLEMENT, ADJUSTING SERVICE AREA MAPS, AND
DISMISSING CONTESTED CASE WITH PREJUDICE

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayer
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Hutchinson
Utilities Commission to Adjust its Assigned
Service Area Boundary with McLeod
Cooperative Power Association

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PROCEDURAL HISTORY

On September 23, 1996 the Hutchinson Utilities Commission (the City) filed a petition under Minn. Stat. § 216B.44 stating its intention to extend its assigned service area to include all areas within its city limits then within the assigned service area of McLeod Cooperative Power Association (McLeod or the co-op). The petition asked the Commission to determine that appropriate compensation to McLeod for the service rights at issue was zero.

On December 2, 1996 the Commission referred the matter to the Office of Administrative Hearings for contested case proceedings. Administrative Law Judge Phyllis A. Reha was assigned to the case. On June 24, 1997, the day before evidentiary hearings were to begin, the parties asked that hearings be postponed to permit settlement discussions to continue.

On February 26, 1998 the City and the co-op filed with the Administrative Law Judge a Settlement Agreement resolving all issues in the case. On March 3, 1998 the Department of Public Service notified the Administrative Law Judge the agency did not object to the settlement. On March 5, 1998 the Administrative Law Judge filed her report and recommendation. She found the settlement consistent with Minn. Stat. § 216B.44 and recommended accepting the settlement and dismissing the contested case proceeding with prejudice.

On April 2, 1998 the matter came before the Commission.

FINDINGS AND CONCLUSIONS

I. Factual and Statutory Background

Under Minn. Stat. § 216B.44 a municipal utility may acquire the right to serve any area within its city limits upon paying appropriate compensation to the assigned utility. If the two utilities are unable to agree on compensation, either utility may petition the Commission to set compensation. The Commission is to consider the original cost of any utility property transferred, loss of revenue to the displaced utility, integration expenses, and "other appropriate factors." Minn. Stat. § 216B.44.

In this case the two utilities agreed to a total purchase price of \$100,000 for service rights to areas not covered by a 1994 service area agreement and agreed that no compensation was required for areas subject to that agreement. The parties also filed amended service area maps showing the new boundaries between the two utilities.

II. Commission Action

The Commission has examined the settlement and agrees with the Administrative Law Judge that it resolves all issues in the case, comports with the purposes and requirements of Minn. Stat. §§ 216B.44 and 216B.45, and is in the public interest.

The settlement therefore will be approved; the official service area maps will be adjusted to conform with the maps filed by the parties; and the contested case hearing will be dismissed with prejudice, as recommended by the Administrative Law Judge.

ORDER

1. The Settlement Agreement filed by the parties is hereby accepted and approved.
2. The official service area maps are hereby adjusted to conform with the revised service area maps filed by the parties.
3. The contested case proceeding ordered in this docket is hereby dismissed with prejudice.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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